

## **REMARKS**

### **Status of the Claims**

Claims 1-13, 19, 20, and 23-25 are currently pending. Claims 14-18, 21, and 22 are canceled without prejudice or disclaimer of the subject matter claimed therein. Claims 1-13 are withdrawn from examination as being directed to a separate invention. Claims 19, 20, and 23-25 are under examination.

### **Amendments to the Claims**

Claim 19 has been amended to add the features of canceled claim 21.

Claim 23 has been amended to correct its dependency.

New claims 24 and 25 have been added. Representative support for new claim 24 can be found in claim 2 as originally filed. Representative support for new claim 25 can be found in claim 4 as originally filed.

The amendments to claims 19 and 23 and the addition of new claim 24 do not introduce prohibited new matter.

### **Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claims 19-23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claim 19 has been amended to recite “bacterial strains.” As recited in claim 19, the components of the lactic composition include a mixture of the bacterial strains, *Lactobacillus acidophilus* and *Lactobacillus casei*, and a whole broth of said mixture. Moreover, the term “broth” is defined on page 7, lines 1-3 of the specification. Accordingly, claim 19 and its dependent claims are not indefinite.

### **Rejection Under 35 U.S.C. § 102(e)**

Claims 19-23 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,491,956 (Heo).

Heo does not teach the claimed method of treating and preventing the angiogenesis dependent disorders recited in claim 19. Heo only teaches the use of food fortified with *Lactobacillus acidophilus* and/or *Lactobacillus casei* for preventing and treating duodenal ulcers. Heo does not teach the use of a composition comprising *Lactobacillus acidophilus* and *Lactobacillus casei* for treating and preventing other diseases, such as those recited in claim 19.

Moreover, Heo does not disclose the *Lactobacillus acidophilus* strain I-1492 deposited at the CNCM. Accordingly, Heo does not anticipate the claimed invention.

#### Rejection Under 35 U.S.C. § 103(a)

Claims 19-23 are rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent 6,491,956 (Heo), Konturek *et al.*, and WO 03/045405 (Luquet).

The deficiencies of Heo are discussed above. Heo does not teach the use of a composition comprising *Lactobacillus acidophilus* and/or *Lactobacillus casei* for treating and preventing diseases, such as those recited in claim 19, and Heo does not disclose the *Lactobacillus acidophilus* strain I-1492 deposited at the CNCM.

The Office Action alleges that Konturek *et al.* (Konturek) teaches that *Helicobacter* infection is accompanied by inflammation, carcinogenesis, angiogenesis, and tumor growth. However, Konturek only discloses that *Helicobacter* infection is accompanied by hypergastrinemia. Like Heo, Konturek does not teach the use of a composition comprising *Lactobacillus acidophilus* and/or *Lactobacillus casei* for treating and preventing diseases, such as those recited in claim 19, and Konturek does not disclose the *Lactobacillus acidophilus* strain I-1492 deposited at the CNCM.

The Office Action alleges that Luquet teaches using a combination of *Lactobacillus acidophilus* and *Lactobacillus casei* for treating and preventing cancer and tumor growth. However, Luquet, similar to Heo and Konturek, does not teach using a combination of *Lactobacillus acidophilus* and *Lactobacillus casei* for treating and preventing the diseases recited in claim 19.

Accordingly, there is no reason to combine the teachings of the cited references and to modify the teachings of the cited references to obtain the claimed invention with reasonable expectation of success. Therefore the cited references do not render the claimed invention obvious.

#### Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration, and the timely allowance of the pending claims. A favorable action is awaited. Should an interview be helpful to further prosecution of this application, the Examiner is invited to telephone the undersigned.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: December 10, 2009  
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Respectfully submitted,  
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